

Objection Deadline: February 1, 2018 at 6:00 p.m. (AST)

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

-----	X	
	:	
<i>In re</i>	:	
	:	
THE FINANCIAL OVERSIGHT AND	:	PROMESA
MANAGEMENT BOARD FOR PUERTO RICO,	:	Title III
	:	
as representative of	:	Case No. 17-BK-3283 (LTS)
	:	
THE COMMONWEALTH OF PUERTO RICO,	:	(Jointly Administered)
<i>et al.</i> ,	:	
	:	
Debtors. ¹	:	
	:	
-----	X	
	:	
<i>In re</i>	:	
	:	
THE FINANCIAL OVERSIGHT AND	:	PROMESA
MANAGEMENT BOARD FOR PUERTO RICO,	:	Title III
	:	
as representative of	:	Case No. 17-BK-04780 (LTS)
	:	
PUERTO RICO ELECTRIC POWER	:	Court Filing Relates Only to PREPA
AUTHORITY (PREPA),	:	
	:	
Debtor.	:	
-----	X	

**OBJECTION OF SCOTIABANK DE PUERTO RICO, AS ADMINISTRATIVE
AGENT, TO OVERSIGHT BOARD'S URGENT MOTION TO CLARIFY THE
SCOPE OF THE INTERIM HEARING ON THE FINANCING MOTION**

¹ The Debtors in these title III cases, along with each Debtor's respective Title III case number listed as a bankruptcy case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747).

Scotiabank de Puerto Rico (“Scotiabank” or the “Agent”), as administrative agent for lenders (the “Fuel Line Lenders”) owed approximately \$550 million by the Puerto Rico Electric Power Authority (“PREPA”) under a fuel line facility, respectfully submits this objection to the *Urgent Motion of the Financial Oversight and Management Board for Puerto Rico for Entry of Order Clarifying Scope of Interim Hearing on Urgent Joint Motion of the Financial Oversight and Management Board for Puerto Rico, and the Puerto Rico Fiscal Agency and Financial Advisory Authority for Entry of Interim and Final Orders (A) Authorizing Postpetition Secured Financing, (B) Granting Priming Liens and Providing Superpriority Administrative Expense Claims, (C) Modifying the Automatic Stay, (D) Scheduling a Final Hearing, and (E) Granting Related Relief* [Dkt. No. 557] dated January 31, 2018 (the “Scope Motion”).²

1. On January 27, 2018, the Oversight Board filed the *Urgent Joint Motion of the Financial Oversight and Management Board for Puerto Rico and the Puerto Rico Fiscal Agency and Financial Advisory Authority for Entry of Interim and Final Orders (A) Authorizing Postpetition Secured Financing, (B) Granting Priming Liens and Providing Superpriority Administrative Expense Claims, (C) Modifying the Automatic Stay, (D) Scheduling a Final Hearing, and (E) Granting Related Relief* (the “Financing Motion”) [Dkt. No. 549] and requested an interim hearing on an expedited basis. The Financing Motion seeks authority to borrow up to \$1.3 billion from the Commonwealth of Puerto Rico following entry of the Final Financing Order. Financing Mot. at 1. Of this \$1.3 billion, the Financing Motion requests that \$550 million be available for borrowing prior to the final hearing. *Id.*

² Capitalized terms not defined herein have the meaning ascribed to them in the Financing Motion.

2. Scotiabank has filed a Response and Limited Objection to the Financing Motion (the “Response”). The Response, while generally supporting the proposed financing, objects to certain aspects of the proposed Interim Financing Order. Among other things, the Response argues that the Oversight Board has not demonstrated that PREPA requires \$550 million in emergency financing prior to a final hearing.

3. The proposed order granting the Scope Motion would provide that “[t]he only issues to be heard at the Interim Hearing on the Postpetition Financing Motion are whether (i) the Debtor can obtain post-petition financing without granting a priming lien and superpriority claim, and (ii) any lien being primed is not adequately protected.” Scope Mot. Ex. A, at 2.

4. But those are *not* the only issues that are properly before the Court at the Interim Hearing. At the Interim Hearing, the Court should also consider, among other things, whether PREPA needs all the financing it is seeking. Under Bankruptcy Rule 4001 and Local Rule 4001-2, the Court “may authorize the obtaining of credit” prior to a final hearing “only to the extent necessary to avoid immediate and irreparable harm to the estate pending a final hearing.” Bankr. R. 4001(c)(2); P.R. LBR 4001-2(d); *see also* 9 Collier on Bankruptcy ¶ 4001.07[3] (Rule 4001 “places a burden on the movant to show that no lesser means will prevent the harm that will ensue if the credit is not obtained”). The Financing Motion, accordingly, may be granted prior to a final hearing only to the extent that PREPA actually needs the relevant financing on an emergency basis.

5. The Scope Motion should thus be denied, and the Court should consider all issues that are pertinent to the requested relief, including the amount of interim financing that may be required and the other issues raised in the Response.

Dated: February 1, 2018

Respectfully submitted,

/s/ Antonio A. Arias

Antonio A. Arias
USDC-PR No. 204906
aaa@mcvpr.com
MCCONNELL VALDÉS LLC
270 Muñoz Rivera Avenue, Suite 7
Hato Rey, Puerto Rico 00918
P.O. Box 364225
San Juan, PR 00936-4225
Telephone: (787) 250-5604
Facsimile: (787) 759-9225

/s/ Emil A. Kleinhaus

Richard G. Mason (admitted *pro hac vice*)
Emil A. Kleinhaus (admitted *pro hac vice*)
Brian Bolin (admitted *pro hac vice*)
WACHTELL, LIPTON, ROSEN & KATZ
51 West 52nd Street
New York, New York 10019
Telephone: (212) 403-1000
Facsimile: (212) 403-2000
Email: rgmason@wlrk.com
eakleinhaus@wlrk.com
bbolin@wlrk.com

*Attorneys for Scotiabank de Puerto Rico, as
Administrative Agent*